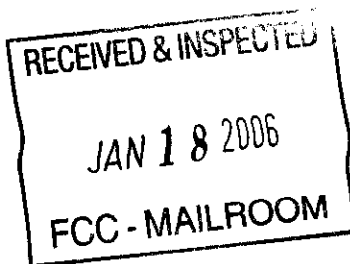




**CardinalHealth**



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VIA E-mail and U.S. Mail:

**DOCKET FILE COPY ORIGINAL**

January 6, 2006

Commission's Secretary  
Office of the Secretary  
Federal Communications Commission  
236 Massachusetts Avenue, N.E.  
Suite 110  
Washington, DC 20002

**RE: Notice of Proposed Rulemaking (NPRM) CG Docket No. 05-338, FCC  
05-206 Proposed Rule: "Rules and Regulations Implementing the Telephone  
Consumer Protection Act of 1991" (70 Fed. Reg. 75103; December 19, 2005)**

Dear Sir or Madam:

Please accept this letter as our comments to the Federal Communications Commission (FCC) *Proposed rule: Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.* Cardinal Health is a leading provider of healthcare products and services. The Junk Fax Prevention Act concerns our company as we communicate with our numerous customers via fax, in addition to email and telephone.

A. Opt-Out Notice: "Shortest reasonable time" within which a sender of unsolicited facsimile advertisements must comply with a request not to receive future facsimile advertisements from the sender.

§ 2(c) of the Junk Fax Prevention Act amends § 227(b)(2) of the Communications Act of 1934 ("the Act") to require senders of unsolicited facsimile advertisements to include a notice on the first page of the facsimile that informs the recipient of the ability and means to request that they not receive future unsolicited facsimile advertisements from the sender. We support this provision.

The proposed rule will require the facsimile sender to provide three things –

- 1) a cost free method available for a recipient 24/7 to transmit a request not to receive future facsimile advertisements;
- 2) a domestic contact telephone number; and
- 3) a facsimile machine number.

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We understand and support the need of a facsimile recipient to have the ability to contact the sender and have their number removed from the facsimile distribution list. However, we believe the proposed 30-day limitation to honor a do-not-fax request is unworkable and unduly burdensome. The Junk Fax Prevention Act currently requires the sender to comply *within the shortest reasonable time*. Requiring removal in a specified number of days is unnecessary. Many businesses are on a quarterly calendar and fax notices out on a 3-month cycle. Forcing a review of the facsimile master phone record every 30-days will hinder business operations and reduce efficiency.

B. Amendment that would permit senders to send facsimile advertisements to persons with whom an Existing Business Relationship ("EBR") was formed prior to July 9, 2005, provided the facsimile number was in the sender's possession before July 9, 2005.

The Junk Fax Prevention Act allows for a facsimile sender to obtain the facsimile number of a recipient through:

- 1) voluntary communication of such number, within the context of an established business relationship; or
- 2) a directory, advertisement, or site on the Internet to which the recipient voluntarily agreed to make available its facsimile number for public distribution.

We strongly support the proposed rule which will allow for a third method for obtaining fax numbers. Specifically, if an EBR was in existence prior to July 9, 2005, and the receiver's facsimile number was also in the possession of the sender, then the sender would not be required to demonstrate how it obtained the facsimile number.

C. Burden of Proof: Whether a "do-not-fax" request terminates the EBR exemption even when the recipient subsequently provides express invitation or permission to again receive facsimile advertisements from the sender.

The sender should bear the burden of proof to demonstrate that it had the consumer's express invitation or permission to send the unsolicited facsimile advertisement. When a party files a complaint for receiving an unsolicited facsimile, the sender ultimately bears the burden of proof. We believe implementing a rule to require record keeping of permissions to send a fax is overly burdensome.

Thank you for the opportunity to comment on these proposed rules. If there are additional questions about these comments please feel free to contact me at 858-480-5866.

Sincerely,

Karen Nishii

Karen Nishi  
Pharmacist  
Director of Regulatory Affairs